

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ORLANDO VELASQUEZ,

Plaintiff,

vs.

**HARB CO., HAMID BAKHTIARI,
MAJID BAKHTIARI, and ALI
BAKHTIARI,**

Defendants.

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Civil Action Number:

Jury Trial Demanded

COMPLAINT

Plaintiff Orlando Velasquez (hereafter “Plaintiff”) by and through the undersigned counsel brings this Complaint against Defendants Harb Co., (hereafter “Harb”), Hamid Bakhtiari (hereafter “Hamid”), Majid Bakhtiari (hereafter “Majid”), and Ali Bakhtiari (hereafter “Ali”) (hereafter collectively referred to as “Defendants”), and pleads as follows:

INTRODUCTION

1.

Plaintiff Orlando Velasquez (“Velasquez”) brings this action under the Fair Labor Standards Act of 1938 (as amended) (29 U.S.C. § 201 et.seq.), hereinafter “the FLSA”. Plaintiff brings this action under the FLSA to (1) recover the overtime

pay that was denied him; (2) for an additional amount as liquidated damages; and (3) for his costs of litigation, including his reasonable attorneys' fees.

JURISDICTION AND VENUE

2.

This Court has subject matter jurisdiction over the present action under Article III, § 2 of the United States Constitution, FLSA §16(b), 29 U.S.C. § 216(b), 28 U. S.C §§ 1331 and 1337, because this case arises under the FLSA, a federal statute that affects interstate commerce.

3.

Venue properly lies in the Northern District of Georgia under 28 U.S.C. § 1391 because Defendant Harb Co. is located in this judicial district; and all the events giving rise to the claims herein arose in this judicial district.

THE PARTIES

4.

Plaintiff resides within Gwinnett County, Georgia.

5.

Hamid, Majid and Ali (hereinafter “Individual Defendants”) and Harb Co., employed Plaintiff Velasquez as a driver and landscaper in and around Atlanta, Georgia from on or about April 16, 2008 through July 30, 2010.

6.

From on or about April 16, 2008 through July 30, 2010, Plaintiff Velasquez has been an "employee" as defined in the FLSA § 3(e)(1), 29 U.S.C. § 203(e)(1).

7.

From on or about April 16, 2008 through July 30, 2010, Plaintiff Velasquez has been "engaged in commerce" as defined in 1) FLSA, § 7(a)(1), 29 U.S.C. § 207(a)(1).

8.

Harb Co. is a corporation organized under the laws of the State of Georgia.

9.

At all times material hereto, Defendant Harb Co. has been an "employer" as defined in FLSA § 3(d), 29 U.S.C. §203(d).

10.

From on or about April 16, 2008 through July 30, 2010, Defendant Harb Co., has been "engaged in commerce" as defined in FLSA, § 7(a)(1), 29 U.S.C. § 207(a)(1).

11.

At all time material hereto, Defendant Harb Co. has been an "enterprise engaged in commerce" as defined in FLSA § 3(s)(1)(A), 29 U.S.C. § 203(s)(1)(A).

12.

Defendant Harb Co. is subject to the personal jurisdiction of this Court.

13.

Hamid Bakhtiari resides within Gwinnett Count, Georgia.

14.

Majid Bakhtiari resides within Gwinnett County, Georgia.

15.

Ali Bakhtiari resides within Gwinnett County, Georgia.

16.

At all times material hereto, each Individual Defendant has been an "employer" as defined in FLSA § 3(d), 29 U.S.C. § 203(d).

17.

At all times material hereto, Hamid, Majid, and Ali have been co-owners of Defendant Company, Harb Co.

18.

Hamid is subject to the personal jurisdiction of this Court.

19.

Hamid may be served with process at 90 Parkview Trace Pass, Lilburn, Georgia 30047.

20.

Majid is subject to the personal jurisdiction of this Court.

21.

Majid may be served with process at 90 Parkview Trace Pass, Lilburn, Georgia 30047.

22.

Ali is subject to the personal jurisdiction of this Court.

23.

Ali may be served with process at 90 Parkview Trace Pass, Lilburn, Georgia 30047.

COUNT I — FAILURE TO PAY OVERTIME

24.

The allegations in all previous paragraphs above are incorporated by reference as if fully set out in this paragraph.

25.

At all times material hereto, Velasquez has been an employee covered by the FLSA and entitled to the overtime protections set forth in FLSA § 7(a), 29 U.S.C. § 207(a).

26.

During his employment with Defendants, Velasquez regularly worked in excess of forty (40) hours each week.

27.

Defendants failed to pay Velasquez at one and one half times his regular rate for work in excess of forth (40) hours in any week from on or about April 16, 2008 through July 30, 2010.

28.

Defendants have willfully failed to pay Velasquez at one and one half times his regular rate for work in excess of forth (40) hours in any week from on or about April 16, 2008 through July 30, 2010.

29.

Plaintiff is entitled to payment of overtime in an amount to be determined at trial, in accordance with FLSA § 16(b), 29 U.S.C. § 216(b).

30.

As a result of the underpayment of overtime compensation as alleged above, Plaintiff is entitled to liquidated damages in accordance with FLSA § 16(b), 29 U.S.C. § 216(b).

31.

As a result of the underpayment of overtime compensation as alleged above, Plaintiff is entitled to his litigation costs, including his reasonable attorney's fees in accordance with FLSA § 16(b); 29 U.S.C. § 216(b).

WHEREFORE, Plaintiff respectfully prays:

1. That Plaintiff's claims be tried before a jury;
2. As to Count I, that Plaintiff be awarded an amount to be determined at trial against Defendants in unpaid overtime compensation due under the FLSA, plus an additional like amount in liquidated damages;
3. That Plaintiff be awarded costs of litigation, including his reasonable attorneys' fees from Defendants; and
4. For such other and further relief as the Court deems just and proper.

s/Kevin D. Fitzpatrick, Jr.
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CERTIFICATE OF COUNSEL

Pursuant to Local Rule 7.1, N.D.Ga., the above signatory attorney certified that this pleading was prepared with Times New Roman (14 point), one of the fonts and point selections approved by the Court in local Rule 5.1 B, N.D.Ga.

/s/ Kevin D. Fitzpatrick, Jr.
Georgia Bar No. 262375

/s/ Charles R. Bridgers
Georgia Bar No. 080791

Counsel for Plaintiff